

Prospecting in Waterways  
Administrative Cause No. 08-105W  
July 31, 2008

**TITLE 312 NATURAL RESOURCES COMMISSION**

**Proposed Rule**  
LSA Document #08-

**DIGEST**

Amends 312 IAC 6 for navigable waters and amends 312 IAC 10 for non-navigable waters to address general licenses and individual licenses for prospecting for hard mineral resources. Effective 30 days after filing with the Publisher.

**312 IAC 6-2-3.8**

**312 IAC 6-2-6.8**

**312 IAC 6-5-10**

**312 IAC 10-2-24.5**

**312 IAC 10-2-33.3**

**312 IAC 10-5-11**

**NAVIGABLE WATERS**

SECTION 1. 312 IAC 6-2-3.8 IS ADDED TO READ AS FOLLOWS:

**312 IAC 6-2-3.8 “Hard mineral resources” defined**

**Authority:** IC 14-10-2-4; IC 14-28-1-5; IC 14-29-1-8

**Affected:** IC 14-28-1; IC 14-29-1

**Sec. 3.8. “Hard mineral resources” means naturally occurring alluvial deposits of the following:**

**(1) Gold.**

**(2) Platinum.**

**(3) Silver.**

**(4) Lead.**

**(5) Copper.**

**(6) Diamonds and other gemstones.**

**(7) Other similar materials.** (*Natural Resources Commission; 312 IAC 6-2-3.8*)

SECTION 2. 312 IAC 6-2-6.8 IS ADDED TO READ AS FOLLOWS:

**312 IAC 6-2-6.8 “Prospecting” defined**

**Authority:** IC 14-10-2-4; IC 14-28-1-5; IC 14-29-1-8

**Affected:** IC 14-28-1; IC 14-29-1

**Sec. 6.8. “Prospecting” refers to activities conducted in preparation for or to remove hard mineral resources. (*Natural Resources Commission; 312 IAC 6-2-3.8*)**

SECTION 3. 312 IAC 6-5-10 IS ADDED TO READ AS FOLLOWS:

**312 IAC 6-5-10 Prospecting in a navigable waterway**

**Authority: IC 14-10-2-4; IC 14-28-1-5; IC 14-29-1-8**

**Affected: IC 14-28-1; IC 14-29-1**

**Sec. 10. (a) This section governs prospecting in a navigable waterway which is subject to IC 14-28-1, IC 14-29-1, or IC 14-29-3.**

**(b) Unless otherwise provided in this section, a person must not engage in prospecting except as approved by the department in a written license.**

**(c) Without a written license or notice to the department, and except as provided in subsection (d), a person may engage in prospecting within the ordinary high watermark of a navigable waterway upon compliance with each of the following conditions:**

**(1) Lawful ingress to and egress from the navigable waterway is obtained.**

**(2) Written permission is obtained from any riparian owner.**

**(3) Prospecting is performed exclusively by one (1) or a combination of the following processes:**

**(A) Without the use of equipment.**

**(B) With the use of non-motorized equipment such as a pan, sluice box, or pick and shovel.**

**(C) With the use of suction equipment with a nozzle opening not larger than five (5) inches in diameter.**

**(4) No mercury or other chemicals are used to assist with the recovery of hard mineral resources.**

**(d) The following waterways do not qualify for prospecting under subsection (c) or under 312 IAC 10-5-11(c):**

**(1) Lake Michigan.**

**(2) Tippecanoe River.**

**(3) Main Stem of White River.**

**(4) East Fork of White River from its confluence with the West Fork of the White River upstream to Williams Dam.**

**(4) Wabash River from the mouth of Big Pine Creek upstream to the mouth of Salamonie River.**

**(5) Fish Creek from the Ohio State Line upstream to County Road 650 South in Steuben County.**

**(6) Big Creek from its confluence with the Wabash River upstream to State Road 66 Bridge in Posey County. (*Natural Resources Commission; 312 IAC 6-5-10*)**

## **NON-NAVIGABLE WATERS**

SECTION 4. 312 IAC 10-2-24.5 IS ADDED TO READ AS FOLLOWS:

**312 IAC 10-2-24.5 “Hard mineral resources” defined**

**Authority:** IC 14-10-2-4; IC 14-28-1-5; IC 14-29-1-8

**Affected:** IC 14-28-1; IC 14-29-1

**Sec. 24.5. “Hard mineral resources” means naturally occurring alluvial deposits of the following:**

- (1) Gold.**
- (2) Platinum.**
- (3) Silver.**
- (4) Lead.**
- (5) Copper.**
- (6) Diamonds and other gemstones.**
- (7) Other similar materials.** (*Natural Resources Commission; 312 IAC 10-2-24.5*)

SECTION 5. 312 IAC 10-2-33.3 IS ADDED TO READ AS FOLLOWS:

**312 IAC 10-2-33.3 “Prospecting” defined**

**Authority:** IC 14-10-2-4; IC 14-28-1-5; IC 14-29-1-8

**Affected:** IC 14-28-1; IC 14-29-1

**Sec. 33.3. “Prospecting” refers to activities conducted in preparation for or to remove hard mineral resources.** (*Natural Resources Commission; 312 IAC 10-2-33.3*)

SECTION 6. 312 IAC 10-5-11 IS ADDED TO READ AS FOLLOWS:

**312 IAC 10-5-11 Prospecting in a non-navigable waterway**

**Authority:** IC 14-10-2-4; IC 14-28-1-5;

**Affected:** IC 14-28-1; IC 14-29-1

**Sec. 11. (a) This section governs prospecting in a non-navigable waterway which is subject to IC 14-28-1.**

**(b) Unless otherwise provided in this section, a person must not engage in prospecting in a non-navigable waterway except as approved by the department in a written license.**

**(c) Without a written license or notice to the department, and except as provided in subsection (d), a person may engage in prospecting in a non-navigable waterway upon compliance with each of the following conditions:**

- (1) Lawful ingress to and egress from the waterway is obtained.**
- (2) Written permission is obtained from the property owner or owners.**
- (3) Prospecting is performed exclusively by one (1) or a combination of the following processes:**

**(A) Without the use of equipment.**

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**(B) With the use of non-motorized equipment such as a pan, sluice box, or pick and shovel.**

**(C) With the use of suction equipment with a nozzle opening not larger than five (5) inches in diameter.**

**(4) No mercury or other chemicals are used to assist with the recovery of hard mineral resources.**

**(d) 312 IAC 6-5-10 governs navigable waterways and also identifies waterways which are disqualified for prospecting under subsection (c).** *(Natural Resources Commission; 312 IAC 10-5-11)*